

UNIVERSITY OF MASSACHUSETTS LOWELL
Nondiscrimination Guidelines

Policy Statement

The University of Massachusetts Lowell (UMass Lowell or university) reaffirms its commitment to employment and pedagogical practices and a learning environment free of discrimination and harassment. At UMass Lowell, equal opportunity and safe working and learning environments are the foundation for a diverse, inclusive and highly effective community in which all members may thrive. These Guidelines incorporate standards of behavior that are consistent with the university's values.

The university will not be tolerant of conduct which violates rights guaranteed to all members of its community, including but not limited to, applicants, visitors, and vendors, including minors, by the law or the university's policies. Accordingly, the university prohibits unlawful discrimination and harassment based upon protected characteristics, and related retaliatory conduct, in accordance with state and federal non-discrimination laws, including, but not limited to, Title IX of the Education Amendments of 1972, the Title IX regulations by the U.S. Department of Education (including the definition of sexual harassment as defined by the Title IX regulations), Title VII of the Civil Rights Act of 1964, the Massachusetts anti-discrimination laws, and the University of Massachusetts Non Discrimination and Harassment Policy.

If the provisions of these Nondiscrimination Guidelines are violated, the university will take appropriate steps to end the inappropriate behavior and address its effects. If it is determined that inappropriate conduct has been committed by one of our community members, regardless of whether conduct constitutes a violation of these Guidelines, the university's administration or supervisors will take such action as is appropriate under the circumstances. Such action may range from counseling to separation from the university.

These Guidelines aim to support education, prevention and accountability and strive to create a workplace climate that is free of harassment.

Purpose

The purpose of these Guidelines is to:

- Promote UMass Lowell's commitment to integrity in fostering equity, inclusion, and safe learning and working environments; and promote equitable, fair, consistent, and transparent standards to prevent and address unlawful discrimination, harassment including sexual harassment, and retaliation.
- Provide an overview of the civil rights regulations to which UMass Lowell is subject.
- Define behaviors which are prohibited.
- Describe how to report a concern regarding a potential violation of these Guidelines.
- Describe responsibilities of supervisory employees (including faculty), to share a concern that these Guidelines may have been violated. For potential concerns involving sexual harassment, as the term is defined by the Title IX Regulations, only Officials with Authority are required to report these concerns directly to the Title IX Coordinator.

- Delineate potential consequences for violations of these Guidelines.

Scope

These Guidelines apply to all employees, students, vendors, and visitors of UMass Lowell. For further detail regarding how these Guidelines apply to students, please see the [Student Conduct Code](#).

Definitions

Advisor of choice is an individual who accompanies and supports the reporting and the responding parties, who may provide support but may not speak on behalf of the person or otherwise participate in or contribute to a meeting, grievance proceeding, or hearing. Advisors have additional responsibilities where the process is governed by the Sexual Harassment Grievance Procedures. Please see the Sexual Harassment Grievance Procedure, which defines the Advisor's role related to a formal Title IX Sexual Harassment complaint.

Confidential Employee is an employee who, because of his/her position, may not reveal an individual's identity or other information without permission, even to the Title IX Coordinator(s). The following categories of employees are confidential employees:

- Licensed sexual assault counselors, psychologists, psychotherapists, social workers, clergy, and attorneys, and those persons working under the supervision of such individuals, when acting in their professional role providing services to a patient or client.
- University employees bound by statutory privilege obligations under Massachusetts law, such as religious practitioners who are not mandatory reporters for child abuse and neglect.
- University employees provide administrative, operational, and/or related support for a confidential employee in the performance of such services such as supporting staff for the roles listed above.

Confidential Resource Provider, please see this EOO Complaint Procedure and the university's Sexual Harassment Grievance Procedure. Parties could access the services of the Confidential Resource Provider, even if a formal(written) complaint has not been filed. At UMass Lowell, the Confidential Resource Provider is Angelique Conto means an employee or other individual designated by the university to provide information on (1) reporting options and the effects of each option; (2) counseling services available on and off campus; (3) medical and health services available on and off campus; (4) available supportive measures; (5) disciplinary process of the university; and (6) the legal process carried out through local law enforcement agencies. Confidential Resource Provider services are available to assist parties in a Sexual Misconduct or Sexual Harassment matter. Their services are confidential unless otherwise required by state or federal law. If requested by the reporting and/or Respondent of an alleged sexual harassment/sexual misconduct matter, the Confidential Resource Provider may coordinate with other members of the university's community, as needed, to arrange **Error! Reference source not found.** The Confidential Resource Provider shall notify the parties of their rights and the university's responsibilities regarding a protection order, no contact order, and any other lawful orders issued by the university or a civil, criminal, or tribal court. For additional information regarding supportive measures, individuals can contact the Case Manager and Confidential Resource Provider at 978-934-6800, for Counseling Services, 220 Pawtucket Street, Suite 300, Lowell, MA 01854.

Gender Expression refers to the external characteristics and behaviors that relate to a perception of gender, including but not limited to dress, mannerisms, speech patterns, social interactions, and body characteristics.

Gender Identity refers to an individual's internal sense of gender, which may be male or female, man or woman, or not conforming to those binary genders. A person's gender identity may be different or the same as the person's sex assigned at birth.

Harassment is conduct against a person or persons based upon their legally protected class that adversely has the effect of:

1. unreasonably interfering with a person or person's employment, educational benefits, academic grades or opportunities, or participation in university programs or activities; or
2. unreasonably interfering with a person or person's work or academic performance; or
3. creating an intimidating, hostile, or offensive working or academic environment.

Retaliation is the interference through intimidation, threats, coercion, or unlawful discrimination, with an individual's right or privilege secured under the law [Title IX of the Education Amendments of 1972, Title VII of the Civil Rights Act of 1964, the Massachusetts anti-discrimination laws, or other laws] to report or make a complaint, testify, assist or participate or refuse to participate in any manner in an investigation or grievance proceeding, or hearing, or to intervene to prevent a violation of the university's policy or this guidelines.

Sexual Harassment¹ under Title IX is conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the University conditioning the provision of an aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct.
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that effectively denies a person equal access to the University's education program or activity.
3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a) (10), "domestic violence" as defined in 34 U.S.C. 1229(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a) (30), as amended. Please see the definitions of each of these terms in the **Sexual Harassment Grievance Procedure**.

Sexual Misconduct is an incident of sexual violence, dating violence, domestic violence, gender-based violence, violence based on sexual orientation or gender identity or expression, sexual assault, sexual harassment, or stalking, as these terms are defined by M.G.L. Chapter 6 §§ 168D and 168E, when such conduct is not defined as Sexual Harassment under Title IX, above).

Unlawful Discrimination is behavior that is directed at a specific person or persons that subjects them to treatment that adversely affects their employment, application for employment, education, admissions, university benefits, programs, or activities, because of their religion or religious belief, color, race, marital status, veteran or military status, age, sex (including sexual harassment), gender identity or expression, sexual orientation, national origin, ethnicity, disability, genetic information,

¹ Concerns involving Sexual Harassment will be reviewed pursuant to the UMass Lowell Sexual Harassment Grievance Procedure. The Sexual Harassment definition and Sexual Harassment Grievance Procedure may apply when, for example, the reported conduct happened on campus property, and the university has jurisdiction over both parties. In other instances, the definition of Sexual Misconduct may apply.

pregnancy or related condition, natural or protective hairstyle, or any other legally protected class. National origin protections include nondiscrimination on the basis of language.²

Procedures

Individuals who believe they are subjected to **Unlawful Discrimination, Harassment, Sexual Misconduct**, or **Retaliation** may file a concern with the Office of Equal Opportunity & Outreach or, if concerns involve students as respondents, with the Office of Student Conduct (“Student Conduct”).

Individuals who believe they are subjected to Sexual Harassment as that term is defined above and under Title IX may file a formal(written) complaint directly with the university’s Title IX Coordinator. **Individuals with disabilities or limited English proficiency may contact the Office of Equal Opportunity and Outreach at (978) 934-3565 if they need an accommodation or language services to access the complaint process.**

Reporting persons must complete the Concerns Reporting Form online and must meet with EOO, Student Conduct, the Title IX Coordinator or designee, as appropriate. EOO staff will meet with individuals to review concerns involving employees. The Student Conduct staff will meet with students to review matters involving students as respondents. These matters will be responded to as expeditiously as possible to facilitate resolution. The complainant and the respondent may be accompanied by an **Advisor** to all UMass Lowell meetings pertaining to the complaint.

Department of Energy programs: Any individual with a concern of discrimination based on race, color, national origin, sex, disability, or age in connection with any program or activity receiving assistance from the Department of Energy (D.O.E.) may also submit a complaint in writing to Field Civil Rights Officers located in the 'D.O.E.'s field offices or to the Director, Office of Civil Rights and Diversity, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

The university’s Equal Opportunity Complaint Procedure describes the processes followed by the university’s staff to review Unlawful Discrimination, Harassment, Sexual Misconduct and Retaliation complaints. The university’s Sexual Harassment Grievance Procedure describes the processes followed to review **Sexual Harassment** complaints. Both Procedures also include a possible option of informal resolution, in specified limited circumstances.

Anonymous Reports: Individuals who wish to file an anonymous report or complaint may do so by filing the online **Report a Concern** form online at: www.uml.edu/HR/Equal/report.aspx while not including any identifying information such as their name or contact information. These reports are not considered formal(written) complaints. If complaints are filed anonymously, the university’s ability to review and address the concern may be limited.

Confidentiality Requests: Only **Confidential Employees** and, for matters involving **Sexual Harassment or Sexual Misconduct, Confidential Resource Providers** can provide confidentiality. All individuals may discuss the matter with a **Confidential Employee**. Confidentiality cannot be ensured if the matter is also disclosed to another member of the university. For sexual harassment (as defined under Title IX), formal(written) complaints must be filed directly with the university’s Title IX Coordinator.

² Individuals with limited English language proficiency are invited to contact EOO at (978) 934-3565 to request assistance in accessing UMass Lowell’s programs and activities.

Please note that these guidelines prohibit **Retaliation**. The university takes steps to prevent **Retaliation** and will take strong responsive action if it occurs. The Director of Equal Opportunity and Outreach and Diversity and Inclusion / Title IX Coordinator will evaluate a confidentiality request in the context of the university's responsibility to provide a safe and nondiscriminatory environment for all its students, employees, and visitors, and the rights of the responding person to receive information about the identity of the reporting person and the concerns, if sanctions may result.

UMass Lowell administrators are essential to the successful implementation of these and other Equal Opportunity Guidelines, and the Affirmative Action Plans. By modeling these standards, and by actively designing and achieving programmatic initiatives and goals, they foster the principles of equity and inclusion upon which the Guidelines and Plans are based.

All members of the UMass Lowell community are encouraged to practice bystander awareness, that is, to take action to end and report potential violations of these Guidelines, and to report those incidents or concerns to EOO. Employees are also encouraged to monitor their work environment for the presence of any forms of **Unlawful Discrimination, Harassment, or Retaliation**. A performance factor for all staff is compliance with these Guidelines and fostering inclusion with colleagues.

Knowingly providing a false equal opportunity concern is prohibited. This violation will subject the person who knowingly provides such false information to discipline.

Filing an External Complaint

In addition to filing a complaint with Equal Opportunity and Outreach, you may pursue filing a complaint with an external agency, such as the following, at the same time. You also may pursue any civil action available to you.

The United States Department of Education Office for Civil Rights
Boston Area Office
8th Floor
5 Post Office Square
Boston, MA 02109-3921
Voice phone: (617) 289-0111
Facsimile: (617) 289-0150

The United States Equal Employment Opportunity Commission
Boston Area Office
JFK Federal Building
15 New Sudbury Street, Room 475
Boston, MA 02203-0506
Voice phone: (800) 669-4000, TTY: (800) 669-6820

The Massachusetts Commission Against Discrimination
One Ashburton Place, Suite 601
Boston, MA 02108
Voice phone: (617) 994-6000, TYY: (617) 994-6196

Responsibility

EOO, under the leadership of William Cummings, Director for Equal Opportunity and Outreach, and Compliance, is responsible for the administration of these Guidelines. William Cummings is also the Title IX Coordinator and the Section 504/ADA Coordinator and is responsible for the administration of the affirmative action programs for women, minorities, persons with disabilities, and protected veterans.

Administrators must enact remedial measures as appropriate to stop, remedy, and prevent future occurrences of violations of these Guidelines.

Attachments

UMass Lowell's Affirmative Action Plan is available for inspection from 9 a.m. to 4 p.m. weekdays in EOO.

October 13, 2022